

6/9/08 18

**Christine Joyce**

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**From:** Roland Bartl  
**Sent:** Thursday, May 22, 2008 2:15 PM  
**To:** Christine Joyce; Doug Halley  
**Cc:** Manager Department; Building Department; Planning Department  
**Subject:** Site Plan # 7/1/83-234 (Powder Mill Plaza) - Atlantic Management requests amendment



Scan001.PDF (281 KB)

Christine:

This should go on the consent calendar for the next Board of Selectmen's meeting.

The attachment includes Atlantic Management's request and supporting documents to which I have nothing to add. Atlantic Management has two requests with respect to site plan special permit #234:

1. To delete paragraphs b) and c) from Condition 4 of the permit:

Condition 4 prohibits certain uses on the site:

- a) manufacturing
- b) dry cleaner or similar use with on-site cleaning processing (drop-off & pick-up is allowed)
- c) barber and beauty shop
- d) garage, service station, auto repair.

The Health Director has confirmed to me verbally that the site is now on public sewer and that the uses in question do not pose a problem for the sewer system.

Recommendation on deletion of par. b):

In 1987, the Town amended the zoning bylaw by inserting section 4.3 - Groundwater Protection District. The site is located in Zone 2 of the Groundwater Protection District. Under the Groundwater Protection District regulations, Table 4.3.7.2 - lines 9. and 10., commercial laundries and dry cleaners with on-site cleaning facilities are prohibited. The Board can delete paragraph b) as being obsolete and redundant. But, dry cleaners or similar uses with on-site cleaning facilities will still not be allowed.

Recommendation on deletion of par c):

The Board can delete paragraph c) to allow barbers or beauty shops on the site.

2. To acknowledge that conditions 1, 14, & 15 of the site plan special permit have been met.

Recommendation regarding conditions 1 & 14:

Conditions 1 & 14 were items that the developer had to do before the issuance of building or occupancy permits for the building on the site. The building is in existence and occupied for over 20 years. We can safely assume that these conditions have been met at the time of building and occupancy permits. The Board can issue an acknowledgement to that effect.

Recommendation regarding condition 15:

Condition 15 requires compliance with the conditions of the site plan special permit within one year of the date of the permit and prior to building occupancy. On its face it seems no different than conditions 1 & 14. However, the site plan special permit contains conditions that require ongoing compliance after occupancy, which includes items other than the referenced condition #8, namely conditions 3, 4, 5, 6, 7, 8 & 10, or parts within them. Therefore, the Board's acknowledgement with respect to condition 15 should state that the condition has been met as far as required within the stated time period and for

the issuance of the initial occupancy certificate, but that such acknowledgement does not relieve the property owner from the obligation to maintain compliance with all the ongoing requirements and conditions of the site plan special permit, as amended.

Following Board action I can write a decision amendment for the record, which can include the acknowledgements.

Roland Bartl, AICP  
Planning Director, Town of Acton  
472 Main Street  
Acton, MA 01720  
978-264-9636

-----Original Message-----

From: Christine Joyce  
Sent: Thursday, May 22, 2008 9:26 AM  
To: Doug Halley; Roland Bartl  
Subject: FW: Scan from a Xerox WorkCentre  
Importance: High

Please comment on Atlantic's request for site plan modification.

Christine

-----Original Message-----

From: ATH-MGR-COPIER@acton-ma.gov [mailto:ATH-MGR-COPIER@acton-ma.gov]  
Sent: Thursday, May 22, 2008 3:20 AM  
To: Christine Joyce  
Subject: Scan from a Xerox WorkCentre

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre.

Attachment File Type: PDF

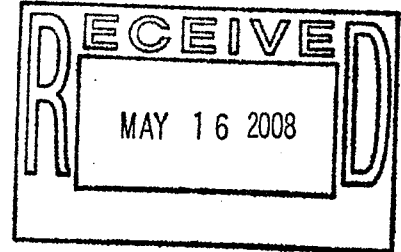
WorkCentre Location: ATH 2nd floor  
Device Name: ATH-MGR-WC7675

For more information on Xerox products and solutions, please visit <http://www.xerox.com>



May 16, 2008

Town of Acton  
Board of Selectmen  
472 Main Street  
Acton, MA 01720  
Attn: Lauren Rosenzweig, Chair



***Re: Request for Modification to Site Plan Approval for Powder Mill Plaza; Site Plan Decision Dated August 15, 1983***

To the Members of the Board:

I am the General Partner of Atlantic-Acton Realty Limited Partnership. On August 15, 1983, the Board of Selectmen granted a site plan approval to a previous owner of the property known as the Powder Mill Plaza, for the development of Powder Mill Plaza. The Plaza is located on Powder Mill Road. A copy of such approval is attached hereto. I am writing to request that the Board of Selectmen modify certain provisions of the site plan approval.

In 1983, the site was not served by any municipal sewage disposal facility, and therefore the Plaza was designed with an on site private waste water treatment facility ("WWTF"). When the Board of Health approved the WWTF, and the selectmen granted the 1983 site plan approval, certain uses were prohibited on the site because of the presence of the on site facility. Those uses are set forth in Section 4 of the site plan approval letter, and were as follows:

- A. Any manufacturing use;
- B. Dry cleaner or similar use, provided that a store for the deposit or pick-up of dry cleaning and laundry shall be permitted so long as no dry cleaning work is done on the premises.
- C. Barber or beauty shop
- D. Garage, service station, automobile repair shop.

As you are aware, within the past year, after working cooperatively with the Town of Acton and more specifically the Town's Board of Health, Atlantic-Acton Realty Limited Partnership connected Powder Mill Plaza to the Acton Waste Treatment Plant, located near Powder Mill Plaza. At the time of such connection, use of the on WWTF was terminated.

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Board of Selectmen  
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Therefore, we are requesting that the Board of Selectmen consider amending the August 15, 1983 site plan approval letter by deleting Paragraphs *4B* and *4C* from the approval. Both uses were of concern when waste was previously treated and discharged into the Assabet River, but our discussions with the Board of Health have led us to believe that the dry cleaner, beauty and barber shop uses do not need to be prohibited any longer, since our waste is now being treated by the town's treatment plant.

In addition, we believe that the construction of the Plaza long since complied with the provisions of Paragraphs 1, 14 and 15. Therefore, since we are requesting that the Board delete requirements *4B* and *4C*, we are also requesting that the Board find that conditions *1, 14 and 15* have been met, as a housekeeping matter. Also attached herewith find a copy of the required Affidavit for 2008 pursuant to Paragraph 8 of site plan approval letter. The remaining conditions of the site plan approval should remain in effect.

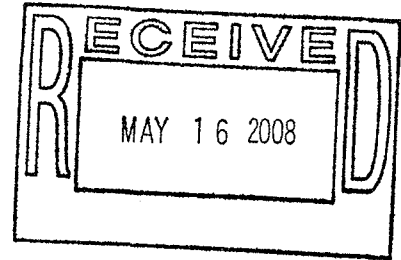
If possible, please schedule this request for the next meeting of the Board that is convenient to the Board. Thank you in advance for your consideration of this request.

Very Truly Yours,

Atlantic Acton Realty Limited Partnership

By: 

David A. Capobianco, General Partner



May 16, 2008

Town of Acton  
Board of Health  
472 Main Street  
Acton, MA 01720

Re: Storage of Chemicals at Powder Mill Plaza, Acton, MA

To Whom It May Concern:

Please be advised that as Owner of the above-referenced premises, and after a request of all our Tenants at this location, please accept this letter as our Affidavit to the Town of Acton that no tenant (excluding Stop & Shop with whom we have been advised has a permit for hazardous materials and has provided the Town of Acton with documentation describing same) store any chemicals anywhere on the site.

If you require any additional information, please feel free to contact this office. Unless we hear from you otherwise, we will assume that this Affidavit has been accepted by the Town of Acton and that we are in full compliance with your hazardous waste concerns.

Very truly yours,

ATLANTIC-ACTON REALTY LIMITED PARTNERSHIP  
By Its Managing Agent  
Atlantic Management Corp.



David A. Capobianco  
C.O.O.

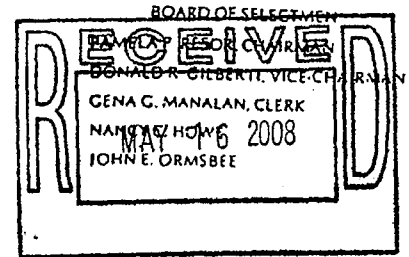
DAC/lam:enclosure



NANCY H. BANKS  
TOWN MANAGER

# TOWN OF ACTON

TOWN HALL  
472 MAIN STREET  
ACTON, MASSACHUSETTS 01720  
TELEPHONE (617) 263-2761



August 15, 1983

SP Acton Realty Trust  
c/o State Properties of N. E., Inc.  
One Wells Avenue  
Newton, Massachusetts 02159

ATTENTION: Mr. Richard Prince

RE: Site Plan #7/1/83-234 - SP Acton Realty Trust

Dear Mr. Prince:

RECEIVED & FILED  
DATE September 14, 1983  
Lydia R. Brown  
TOWN CLERK, ACTON

Under the provisions of Section VIII of the Zoning Bylaw of the Town of Acton, the Board of Selectmen, at its regular meeting held on August 23, 1983, voted to approve Site Development Plan #7/1/83-234 for SP Acton Realty Trust, on Lot 1, Powder Mill Road and High Streets, and as show on: (1) Plan of Land in Acton, Massachusetts by Charles A. Perkins, Co. Inc., Civil Engineers & Surveyors, P. O. Box 234, Clinton, Mass. 01510, Plan #M-5782, owned by SP Acton Realty Trust, "Approval Under the Subdivision Control Law Not Required" signed by the Town Planner, Armand Dufresne on March 7, 1983, (2) Site Plan C-1, (3) Grading Plan C-2, (4) Landscape Plan C-3, (5) Subsurface Disposal System, C-4, (6) Site Details, C-5, (7) Site Details, C-6, (8) Profiles and Miscellaneous Details, C-7, (9) Precast Units - Plans, Sections and Details, C-8, (10) Sewage Effluent Pumping Station and Details, C-9, (11) Elevations, (12) View of Building E, all by Anderson/Nichols, Engineers, Environmental Consultants, and Architects, Concord, N.H., Boston, Mass., and Hartford, Ct., and all known as Site Development Plan #7/1/83-234, subject to the following conditions:

1. Prior to the issuance of a building permit or the start of any work on the site the petitioner shall:
  - a. Obtain all required approvals from the Acton Board of Health.
  - b. Obtain written approval by the Town Engineer of an advisory warning sign to improve traffic safety in the vicinity of the Knox Trail entrance to the plaza; such sign to be installed prior to occupancy of any portion of the premises.

- c. Obtain the written approval of the Town Engineer of a plan for recharging water drainage from the building roofs into the aquifer (to the extent permitted under Conservation Commission Order No. 85-68 of June 23, 1983).
- d. In the event that electrical transformers used are of a type other than non-PCB contaminated (as prescribed in Federal standards) applicant shall design and construct a catchment facility, acceptable to the Town Engineer, for each such transformer to contain any leaks. Applicant shall inspect and clean such catchments at least annually.
2. Up to ten (10) permanent sampling points shall be installed and maintained by the owner with locations which shall be approved by the Director of Health.
3. The Town, the Acton Water District, and their respective agents shall have the right to take samples from the sampling points at any time. The Owner will pay up to \$750 per year for chemical analysis of the samples. If the analysis of any sample reveals hazardous substances, the Owner shall pay for any additional chemical analysis beyond that described in the prior sentence required to determine the nature and source of the substance and the extent of the contamination of the ground water, if any, up to a maximum of \$1,500 per incident.
4. The following uses shall not be permitted on the site:
- a. Any manufacturing use.
  - b. Dry cleaner or similar use, provided that a store for the deposit or pick-up of dry cleaning and laundry shall be permitted so long as no dry cleaning work is done on the premises.
  - c. Barber or beauty shop
  - d. Garage, service station, automobile repair shop.
5. All construction on the site and all uses of the premises shall comply with the order issued by the Acton Conservation Commission of June 23, 1983 under the Wetlands Protection Act (D.E.Q.E., File 85-68) appended hereto as Attachment 1.
6. Snow removed from the parking area and access drives will be located on the perimeter of the pavement or elsewhere on the property in such a manner as to avoid obstructions to access and visibility at the entrances and exits of the shopping center and the functional capability of the drainage facilities on and off the

site. If necessary to effect the foregoing the applicant shall cause snow to be removed from the site at the applicant's sole cost and expense. If requested by the Board of Selectmen to take such action, the applicant will comply with their request.

7. There shall be no storage of chemicals anywhere on the site unless they are registered with the Board of Health (in a form suitable to the Board of Health) and confined within a controlled area(s) acceptable to the Board of Health. Said area(s) shall be designed to prevent penetration of chemicals into the groundwater in the event of an accident or spill. Any registration of chemicals with the Board of Health shall include a plan by the petitioner, acceptable to the Board of Health which clearly specifies (1) how and when the Board of Health will be notified if any accidents or spills occur, and (2) proposed method of clean up and disposal. Those products from time-to-time located on the site incident to the use of the site for shopping center purposes and intended for human consumption, approved by the United States Food & Drug Administration shall not be treated as chemicals requiring such registration and confinement.
8. Petitioner shall annually submit (on the anniversary of this decision) an affidavit to the Board of Selectmen that the applicable conditions of paragraph #7 above are being met or that no chemical storage is taking place on the site. Failure of the petitioner to comply with this requirement shall constitute an immediate and complete revocation of this Site Plan Special Permit. Such revocation shall not become effective until 30 days shall have elapsed, without the filing of such affidavit, after the petitioner's receipt of notice from the Board of Selectmen notifying the petitioner that such an affidavit was not filed as required under this paragraph 8.
9. All abandoned wells shall be covered.
10. There shall be no further subdivision or development of the site without further site plan approval.
11. All development of the site must be in accordance with plans as approved by this decision and with the Bylaws of the Town of Acton.
12. No approval of any indicated signs or advertising devices is implied.

13. Any changes in this plan shall be approved in writing by the Board of Selectmen prior to actual construction. Upon completion of the project, an as built plan shall be submitted to the Board of Selectmen for written approval and to the Building Commissioner.
14. No building or structure authorized by this site plan shall be occupied or used and no activity authorized to be constructed upon the land which is the concern of this site plan approval shall be commenced until a Certificate of Compliance as specified in Section XIII of the Zoning Bylaw has been issued.
15. With the exception of Condition #8, the conditions of this site development plan approval shall be carried into effect and completed by the applicant within one year following the date of approval and prior to issuance of an occupancy permit.

Very truly yours,  
BOARD OF SELECTMEN

by:

*Pamela P. Resor*  
Pamela P. Resor  
Chairman

JEO/acs

cc: Town Clerk  
Planning Board  
Conservation Commission  
Board of Health  
Fire Department  
Board of Assessors  
Town Engineer  
Water District of Acton

2371B